

Ms Kamana Kapoor for Petitioner.
Mr. C. D. Mali, AGP for Respondents No.1 to 4 and 6.
Ms Dhvani Jain i/b. C. K. Legal for Respondent No.7.

P.C. :

Heard Ms Kapoor, learned Counsel for the petitioner, Mr. Mali, learned AGP for respondents No.1 to 4 and 6-State and Ms Jain, learned Counsel for the respondent No.7 at length.

1/5

between private persons shall be reviewed **except on an application of a party to the proceedings.**

3. In support of this Petition, Ms Kapoor submitted that against the order dated 24.05.2011 passed by City Survey Officer, Andheri, respondent No.7 - M/s. Minar Enterprise instituted appeal under Section 247 of the Code before District Superintendent of Land Records, Mumbai Suburban District. Petitioner's father Dr. Jaydev Tripathi was respondent No.5 in that appeal. By order dated 14.08.2012, District Superintendent of Land Records allowed the appeal preferred by the 7th respondent and set aside the order dated 24.05.2011 passed by the City Survey Officer, Andheri. Aggrieved by that order, appeal was preferred by Ashok Kumar Shukla before the Deputy Director of Land Records, Konkan Region, Mumbai. On 18.03.2014, application was made by the petitioner and Saurabh J. Tripathi. In that application, reference was made to the appeal preferred by Ashok Kumar Shukla (Appeal No.346 of 2013) in respect of the property bearing C.T.S.No.201 (1 to 49) situate at Village Bandivali, S. V. Road, Jogeshwari (W), Mumbai 400 102 (for short 'said property'). It was asserted that they are interested party in the property and their father's name Dr. Jaydeo Ramrantan Tripathi is entered in the PR Card of the said property. Request was, therefore, made not to take any decision without hearing them. Further request was made to furnish all the documents filed by Ashok Kumar Shukla for reference and to send notice in advance for hearing of the appeal.

4. Ms Kapoor further submitted that Rojnama of the appeal before the Deputy Director of Land Records also noted that petitioner was heard by the said Authority. She submitted that merely because petitioner did not file appeal against the order dated 14.08.2012 passed by the District Superintendent of Land Records, Mumbai Suburban

District, that cannot be a ground for not entertaining the Review Petition. She submitted that petitioner is vitally interested in the said property and in fact, name of the petitioner's father is entered in the PR Card. The Hon'ble Minister was, therefore, not justified in dismissing the Review Petition on the ground that as the petitioner was not party in the revision proceedings, in view of Section 258(iv) of the Code, Review is not maintainable. She, therefore, submitted that Petition requires consideration.

5. On the other hand, Mr. Mali and Ms Jain supported the impugned order and submitted that petitioner ought to have filed appeal against the order dated 14.08.2012 passed by District Superintendent of Land Records, Mumbai Suburban District. Having not filed the appeal, petitioner has accepted correctness of that decision. It was, therefore, submitted that no case is made out for interfering with the impugned order.

6. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. It is not in dispute and rather it is a matter of record that City Survey Officer, Andheri had passed order in respect of the said property on 24.05.2011. Aggrieved by that decision, respondent No.7 - M/s. Minar Enterprise preferred appeal before District Superintendent of Land Records, Mumbai Suburban District, Mumbai. Father of the petitioner herein Dr. Jaydev R. Tripathi was impleaded as respondent No.5. By order dated 14.08.2012, appeal preferred by the 7th respondent was allowed and the order dated 24.05.2011 passed by the City Survey Officer, Andheri was set aside. It is also not in dispute and rather is a matter of record that one of the respondents therein (respondent No.2- Ashok Kumar Shukla) preferred appeal under Section 247 of the Code before Deputy Director of Land Records. On 18.03.2014, petitioner and

his brother - Saurabh J. Tripathi filed application, as indicated hereinabove. The Rojnama maintained by the office of the Deputy Director of Land Records also indicates that petitioner was heard by that Authority. The fact, however, remains that the petitioner did not file substantive appeal against the decision dated 14.08.2012. By order dated 20.08.2014, Deputy Director of Land Records dismissed the appeal filed by Ashok Kumar Shukla. Aggrieved by this decision, petitioner preferred Revision Application before the Hon'ble Minister. That Revision was dismissed on 25.02.2016. In paragraph 13, contention raised on behalf of the 7th respondent that Revision filed by the petitioner is not maintainable as no appeal was preferred against the order dated 14.08.2012 of District Superintendent of Land Records was recorded. In paragraph 15, the Hon'ble Minister observed that petitioner was not party in Appeal No.346 of 2013, which was decided on 20.08.2014 by Deputy Director of Land Records.

7. As mentioned earlier, admittedly, petitioner did not file appeal against the order dated 14.08.2012. In view thereof, the Revision filed by the petitioner, itself, was wholly misconceived. By order dated 25.02.2016, the Hon'ble Minister dismissed the Revision Application. Petitioner filed review under Section 258 of the Code. In view of Section 258(iv) of the Code, the Hon'ble Minister dismissed the Review Petition. In my opinion, as the petitioner did not file appeal against the decision of 14.08.2012, the Hon'ble Minister rightly dismissed the Revision Application on 25.02.2016. In view thereof, no fault can be found with the order dated 29.06.2017 passed by the Hon'ble Minister dismissing the Review Petition. Hence, Petition fails and the same is dismissed.

8. During the hearing of the Petition, it was brought to my notice that petitioner has instituted S.C.Suit No.16 of 2014 in the Bombay City

Civil Court at Dindoshi inter alia for declaration and injunction. The learned Judge seized of that Suit will decide the Suit on the basis of evidence on record and in accordance with law, uninfluenced by the observations made in the impugned order and in this order. All contentions of the parties on merits in that Suit are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab